

**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

**SUMMARY ORDER**

**RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 18<sup>th</sup> day of March, two thousand thirteen.

Present:

ROBERT A. KATZMANN,  
DENNY CHIN,  
*Circuit Judges,*  
MIRIAM GOLDMAN CEDARBAUM,\*  
*District Judge.*

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STEPHEN PATTERSON,

*Plaintiff-Appellant,*

v.

No.12-97

CITY OF UTICA, LINDA FATATA, individually and in her official capacity as Utica Corporation Counsel, ROBERT PALMIERI, individually and in his official capacity as Utica Weed and Seed Coordinator, LOUIS CAPRI, individually and in his official capacity as Utica Police Officer, STEVEN HAUCK, individually and in his official capacity as Utica Police Officer, HIRAM RIOS, individually and in his official capacity as Utica Police Officer,

*Defendants-Appellees.\*\**

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\* The Honorable Miriam Goldman Cedarbaum, of the United States District Court for the Southern District of New York, sitting by designation.

\*\* The Clerk of the Court is directed to amend the caption of this case as set forth above.

For Plaintiff-Appellant: Stephen Patterson, *pro se*, Utica, NY

For Defendants-Appellees: John Paul Orilio, Assistant Corporation Counsel, City of  
Utica Law Department, Utica, NY

Appeal from a judgment of the United States District Court for the Northern District of New York (Hurd, J.).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the judgment of the district court is **VACATED** and the case is **REMANDED**.

Plaintiff-Appellant Stephen Patterson, proceeding *pro se*, appeals from a judgment of the United States District Court for the Northern District of New York (Hurd, J.), granting defendants' motion for summary judgment on all of Patterson's claims. We assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

"We review a district court's grant of summary judgment *de novo*." *Lombard v. Booz-Allen & Hamilton, Inc.*, 280 F.3d 209, 214 (2d Cir. 2002). Where a party chooses not to respond to a movant's motion for summary judgment, the district court is still obligated to determine whether summary judgment is appropriate. *See Fabrikant v. French*, 691 F.3d 193, 215 n.18 (2d Cir. 2012); *Vt. Teddy Bear Co. v. 1-800-Beargram Co.*, 373 F.3d 241, 244 (2d Cir. 2004). Here, the district court provided no reasons or citations to evidence in the record to justify dismissing Patterson's claims. Instead, the district court noted only that Patterson had failed to oppose the summary judgment motion. This, as we have previously instructed the district court, is an insufficient basis to grant summary judgment to defendants. *See Fabrikant*, 691 F.3d at 215 n.18.

Accordingly, we **VACATE** the judgment and **REMAND** the case to the district court to determine whether defendants are affirmatively entitled to summary judgment.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk